

1 _____ BILL NO. _____

2 INTRODUCED BY _____
(Primary Sponsor)

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TELECOMMUNICATIONS
6 REGULATION; ELIMINATING PUBLIC SERVICE COMMISSION RATE REGULATION; ELIMINATING THE
7 MONTANA STATE UNIVERSAL FUND; REPEALING THE PERFORMANCE ASSURANCE PLAN STATE
8 ACCOUNT AND THE ASSOCIATED STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 45-
9 8-213, 69-3-302, AND 69-3-305, MCA; REPEALING SECTIONS 69-3-806, 69-3-807, 69-3-808, 69-3-809, 69-3-
10 810, 69-3-821, 69-3-870, 69-3-901, 69-3-902, 69-3-903, 69-3-904, 69-3-905, 69-3-906, 69-3-907, 69-3-910,
11 AND 69-6-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 17-7-502, MCA, is amended to read:

16 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
18 the need for a biennial legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
20 both of the following provisions:

21 (a) The law containing the statutory authority must be listed in subsection (3).

22 (b) The law or portion of the law making a statutory appropriation must specifically state that a
23 statutory appropriation is made as provided in this section.

24 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
25 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
26 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;
27 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-
28 70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-

112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; ~~69-3-870~~; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June

30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

Section 2. Section 45-8-213, MCA, is amended to read:

"45-8-213. Privacy in communications. (1) ~~Except as provided in 69-6-104, a~~ A person commits the offense of violating privacy in communications if the person knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, or injure, communicates with a person by electronic communication and threatens to inflict injury or physical harm to the person or property of the person or makes repeated use of obscene, lewd, or profane language or repeated lewd or lascivious suggestions;

(b) uses an electronic communication to attempt to extort money or any other thing of value from a person or to disturb by repeated communications the peace, quiet, or right of privacy of a person at the place where the communications are received;

(c) records or causes to be recorded a conversation by use of a hidden electronic or mechanical device that reproduces a human conversation without the knowledge of all parties to the conversation; or

(d) with the purpose to terrify, intimidate, threaten, harass, or injure, publishes or distributes printed or electronic photographs, pictures, images, or films of an identifiable person without the consent of the person depicted that show:

(i) the visible genitals, anus, buttocks, or female breast if the nipple is exposed; or

(ii) the person depicted engaged in a real or simulated sexual act.

(2) (a) Subsection (1)(c) does not apply to:

(i) elected or appointed public officials or to public employees when the transcription or recording is done in the performance of official duty;

- 1 (ii) persons speaking at public meetings;
- 2 (iii) persons given warning of the transcription or recording. If one person provides the warning,
- 3 either party may record.
- 4 (iv) a health care facility, as defined in 50-5-101, or a government agency that deals with health
- 5 care if the recording is of a health care emergency telephone communication made to the facility or agency.
- 6 (b) Subsection (1)(d) does not apply to:
- 7 (i) images involving the voluntary exposure of a person's genitals or intimate parts in public or
- 8 commercial settings;
- 9 (ii) disclosures made in the public interest, including but not limited to the reporting of unlawful
- 10 conduct;
- 11 (iii) disclosures made in the course of performing duties related to law enforcement, including
- 12 reporting to authorities, criminal or news reporting, legal proceedings, or medical treatment; or
- 13 (iv) disclosures concerning historic, artistic, scientific, or educational materials.
- 14 (3) ~~Except as provided in 69-6-104, a~~ A person commits the offense of violating privacy in
- 15 communications if the person purposely intercepts an electronic communication. This subsection does not
- 16 apply to elected or appointed public officials or to public employees when the interception is done in the
- 17 performance of official duty or to persons given warning of the interception.
- 18 (4) (a) A person convicted of the offense of violating privacy in communications shall be fined an
- 19 amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.
- 20 (b) On a second conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in
- 21 the county jail for a term not to exceed 1 year or be fined an amount not to exceed \$1,000, or both.
- 22 (c) On a third or subsequent conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be
- 23 imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$10,000, or
- 24 both.
- 25 (5) Nothing in this section may be construed to impose liability on an interactive computer service
- 26 for content provided by another person.
- 27 (6) As used in this section, the following definitions apply:
- 28 (a) "Electronic communication" means any transfer between persons of signs, signals, writing,

1 images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio,
2 electromagnetic, photoelectronic, or photo-optical system.

3 (b) "Interactive computer service" means any information service, system, or access software
4 provider that provides or enables computer access by multiple users to a computer server, including specifically
5 a service or system that provides access to the internet and this type of service or system as operated or
6 offered by a library or educational institution."

7

8 **Section 3.** Section 69-3-302, MCA, is amended to read:

9 **"69-3-302. Changes in schedules.** (1) Except as provided in 69-3-308, a change may not be made
10 in any schedule, including schedules of joint rates, except as approved by the commission, ~~upon~~ on the
11 passage of 9 months, ~~or by operation of 69-3-907(1).~~ If the 9-month time period expires prior to commission
12 approval of a schedule, a utility may waive the time period.

13 (2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made
14 pursuant to 69-3-308, the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to
15 69-3-301 must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months
16 after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted
17 by the commission or upon commission approval, whichever occurs first, unless the utility waives the 9-month
18 time period. However, if the rates, tolls, or charges become effective because of the passage of 9 months, the
19 revenue collected is subject to rebate, plus interest at an annual rate determined by the commission, to the
20 extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce
21 revenue that is less than that collected under the filed schedules. In the case of an investor-owned utility, the
22 interest rate set by the commission may not exceed the cost of equity capital as last determined by the
23 commission.

24 (3) The commission may prescribe rules necessary to effectively administer this section."

25

26 **Section 4.** Section 69-3-305, MCA, is amended to read:

27 **"69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) Except as provided in
28 subsection ~~(5)(a)~~ (4)(a), a public utility may not:

(a) charge, demand, collect, or receive a greater or less compensation for a utility service performed by it within the state or for any service in connection with a utility service than is specified in the printed schedules, including schedules of joint rates, that may at the time be in force;

(b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

(c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly, has or may have the effect of changing the rates, tolls, charges, or payments.

(2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and charges until the rates, tolls, and charges are changed, as provided in this chapter.

(3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of this section and may order payment of interest at a reasonable rate on the refunded amount.

~~(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in conjunction with an alternative form of regulation approved under 69-3-809.~~

~~(5)~~(4) (a) A provider of regulated telecommunications service may offer, for a limited period of time, rebates, price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-related activities that are common business practices. Promotional pricing for services to end users does not require advance approval of the commission. Informational price lists must be filed with the commission on or before the date that the promotion begins.

(b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install energy conservation and nonfossil forms of energy generation systems in dwellings.

(c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants and subsidized loans, either by rule or in response to complaints. The commission may determine whether a particular sales activity or grant or subsidized loan program under this subsection is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

~~(6)~~(5) A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206. However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing contracts."

